

This Page Is Inserted by IFW Operations  
and is not a part of the Official Record

## **BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning documents *will not* correct images,  
please do not report the images to the  
Image Problem Mailbox.**



Beiersdorf 569-WCG  
6713-Dr.Lt-ka

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s) : DIEMBECK, et al.  
Serial No. : 09/367,748  
Filed : August 19, 1999  
For : PREPARATIONS FOR THE TREATMENT OF ROSACEA  
Art Unit : Not Assigned  
Examiner : Not Assigned

---

November 17, 1999

Box MISSING PARTS  
Assistant Commissioner  
For Patents  
Washington, D.C. 20231

**BEST AVAILABLE COPY**

S I R:

**COMMUNICATION RE: FILING OF DECLARATION ON  
A DATE LATER THAN THE FILING DATE OF THE APPLICATION**

This is in response to the Notice to File Missing Parts of Application under 37 CFR 1.53(d) dated November 1, 1999 in the above-identified application. A copy of said Notice is attached hereto.

It is requested that the papers submitted herewith be joined up with the papers previously filed in this Application.

Applicant is:

☐ a small entity                      ☐ verified statement attached  
☒ other than a small entity              ☐ verified statement filed

It is requested that the surcharge for the filing of the Declaration be charged to the undersigned's Deposit Account No. 14-1263.

Please charge:

[ ] \$ 65.00 for small entity

[X] \$130.00 for other than small entity.

An extra copy of this communication is appended hereto for accounting purposes.

**CONDITIONAL PETITION FOR EXTENSION OF TIME**

If any extension of time for this response is required, applicant requests that this be considered a petition therefor. Please charge the required Petition fee to Deposit Account No. 14-1263.

**BEST AVAILABLE COPY**

**ADDITIONAL FEE**

Please charge any insufficiency of fees, or credit any excess to our Deposit Account No. 14-1263.

Respectfully submitted,

NORRIS, McLAUGHLIN & MARCUS, P.A.

By William C. Gerstenzang  
William C. Gerstenzang  
Reg. No. 27,552

WCG:kts

Enc. - Declarations and Powers of Attorney  
- Copy of Notice of Missing Parts

660 White Plains Road  
Tarrytown, N.Y. 10591  
(914) 332-1700

I hereby certify that this correspondence is being deposited with the United States Postal Services as first class mail in an envelope addressed to: Asst. Commissioner For Patents, Washington, D.C. 20231 on November 17, 1999.

NORRIS, McLAUGHLIN & MARCUS, P.A.

By William C. Gerst Date 11/17/99

Please type a plus sign (+) inside this box →

Approved for use through 9/30/00. OMB 0651-0031

Patent and Trademark Office: U.S. Department of Commerce

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



# TRANSMITTAL FORM

(To be used for all correspondence after initial filing)

Application Number	09/367,748
Filing Date	August 19, 1999
First Named Inventor	Walter DIEMBECK, et al.
Group Art Unit	Not Assigned
Examiner Name	Not Assigned
Total Number of Pages in This Submission	21
Attorney Docket Number	Beiersdorf 569-WCG

## ENCLOSURES (check all that apply)

- |  |   |  |
|--|---|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form <ul style="list-style-type: none"> <li><input type="checkbox"/> Fee Attached</li> </ul> <input type="checkbox"/> Amendment / Response <ul style="list-style-type: none"> <li><input type="checkbox"/> After Final</li> <li><input type="checkbox"/> Affidavits/declaration(s)</li> </ul> <input type="checkbox"/> Extension of Time Request | <input type="checkbox"/> Assignment Papers (for an Application)                         | <input type="checkbox"/> After Allowance Communication to Group                            |
| <input type="checkbox"/> Express Abandonment Request   | <input type="checkbox"/> Drawing(s)   | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences        |
| <input type="checkbox"/> Information Disclosure Statement  | <input type="checkbox"/> Licensing-related Papers                                       | <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> Certified Copy of Priority Document(s)  | <input type="checkbox"/> Petition Routing Slip(PTO/SB/69) and Accompanying Petition     | <input type="checkbox"/> Proprietary Information   |
| <input type="checkbox"/> Response to Missing Parts/ Incomplete Application   | <input type="checkbox"/> To convert a Provisional Application                           | <input type="checkbox"/> Status Letter   |
| <input checked="" type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53  | <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address | <input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below):       |
|  | <input type="checkbox"/> Terminal Disclaimer  | Notice of Change of Firm Name  |
|  | <input type="checkbox"/> Small Entity Statement   |  |
|  | <input type="checkbox"/> Request for Refund   |  |

Remarks:



11-19-1999

U.S. Patent &amp; TMO/TM Mail Rcpt Dt. #31

BEST AVAILABLE COPY

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	William C. Gerstenzang Norris, McLaughlin & Marcus, P.A.
Signature	<i>William C. Gerstenzang</i> Reg. No. 27,552
Date	November 17, 1999

## CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to : Assistant Commissioner for Patents, Washington, D.C. 20231 on this date: November 17, 1999.

Typed or printed name	William C. Gerstenzang		
Signature	<i>William C. Gerstenzang</i>	Date	November 17, 1999

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

BEST AVAILABLE COPY

PTO/SB/17 (6/99)  
Approved for use through 09/30/2000. OMB 0651-0032Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE  
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.**FEE TRANSMITTAL****for FY 1999**

Patent fees are subject to annual revision.

Small entity payments must be supported by a small entity statement, otherwise large entity fees must be paid. See Forms PTO/SB/09-12.

See 37 C.F.R. §§ 1.27 and 1.28.

TOTAL AMOUNT OF PAYMENT (\$) 130.00

**Complete if Known**

Application Number	09/367,748
Filing Date	August 19, 1999
First Named Inventor	Walter DIEMBECK, et al.
Examiner Name	Not Assigned
Group / Art Unit	Not Assigned
Attorney Docket No.	Beiersdorf 569-WCG

**METHOD OF PAYMENT (check one)**

- 1.
- ☒
- The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit Account Number 14-1263

Deposit Account Name NORRIS McLAUGHLIN &amp; MARCUS, P.A.

☐ Charge Any Additional Fee Required  
Under 37 CFR §§ 1.16 and 1.17

- 2.
- ☐
- Payment Enclosed:

☐ Check ☐ Money Order ☐ Other**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)	Fee Code (\$)	Fee Code (\$)		
101	760	201	380	Utility filing fee	
106	310	206	155	Design filing fee	
107	480	207	240	Plant filing fee	
108	760	208	380	Reissue filing fee	
114	150	214	75	Provisional filing fee	

SUBTOTAL (1) (\$)

**2. EXTRA CLAIM FEES**

	Extra Claims	Fee from below	Fee Paid
Total Claims	-20** =	X	
Independent Claims	-3** =	X	
Multiple Dependent			

\*\*or number previously paid, if greater; For Reissues, see below

Large Entity		Small Entity		Fee Description
Fee Code (\$)	Fee Code (\$)	Fee Code (\$)	Fee Code (\$)	
103	18	203	9	Claims in excess of 20
102	78	202	39	Independent claims in excess of 3
104	260	204	130	Multiple dependent claim, if not paid
109	78	209	39	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**FEE CALCULATION (continued)****3. ADDITIONAL FEES**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)	Fee Code (\$)	Fee Code (\$)		
105	130	205	65	Surcharge - late filing fee or oath	130.00
127	50	227	25	Surcharge - late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	380	216	190	Extension for reply within second month	
117	870	217	435	Extension for reply within third month	
118	1,360	218	680	Extension for reply within fourth month	
128	1,850	228	925	Extension for reply within fifth month	
119	300	219	150	Notice of Appeal	
120	300	220	150	Filing a brief in support of an appeal	
121	260	221	130	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,210	241	605	Petition to revive - unintentional	
142	1,210	242	605	Utility issue fee (or reissue)	
143	430	243	215	Design issue fee	
144	580	244	290	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Petitions related to provisional applications	
126	240	126	240	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	760	246	380	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	760	249	380	For each additional invention to be examined (37 CFR § 1.129(b))	

Other fee (specify) \_\_\_\_\_

Other fee (specify) \_\_\_\_\_

\* Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 130.00

**SUBMITTED BY**

Name (Print/Type)	William C. Gersenzang	Registration No. (Attorney/Agent)	27,552	Telephone	(914) 332-1700
Signature	<i>William C. Gersenzang</i>	Date	Nov. 17, 1999		

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

*New York 5/19/98*

U.S. APPLICATION NO. 09/367748	FIRST NAMED APPLICANT DIEMBECK	ATTY. DOCKET NO. BEIERSDORF 5
INTERNATIONAL APPLICATION NO. PCT/EP98/00991		
I.A. FILING DATE 20 FEB 98	PRIORITY DATE 21 FEB 97	DATE MAILED NOV 19 1999

WILLIAM C GERSTENZANG  
SPRUNG KRAMER SHAEFER & BRISCOE  
660 WHITE PLAINS ROAD  
TARRYTOWN, NY 10591 5144

*Date Mailed 12-1-99*

**NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as

- ☐ a Designated Office (37 CFR 1.494),  
☒ an Elected Office (37 CFR 1.495):  
☒ U.S. Basic National Fee.  
☐ Copy of the international application in:  
☒ a non-English language.  
☐ English.  
☒ Translation of the international application into English.  
☐ Oath or Declaration of inventor(s) for DO/EO/US.  
☐ Copy of Article 19 amendments.  
☐ Translation of Article 19 amendments into English.  
☒ The International Preliminary Examination Report in English and its Annexes, if any.  
☐ Translation of Annexes to the International Preliminary Examination Report into English.  
☒ Preliminary amendment(s) filed 19 AUG 1999 and                       
☐ Information Disclosure Statement(s) filed                      and                       
☐ Assignment document.  
☐ Power of Attorney and/or Change of Address.  
☐ Substitute specification filed                       
☐ Verified Statement Claiming Small Entity Status.  
☒ Priority Document.  
☒ Copy of the International Search Report ☒ and copies of the references cited therein.  
☐ Other:



**BEST AVAILABLE COPY**

2. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- ☐ a. Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.  
☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.  
☒ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).  
☒ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.  
☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.  
☒ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

3. Additional claim fees of \$                      as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due. See attached PTO-875.

**ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☒ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

4. Translation of the Annexes **MUST** be submitted no later that the time period set above or the annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.

5. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

***A copy of this notice MUST be returned with this response.***

Enclosed:

- ☐ PCT/DO/EO/917 ☐ Notice of Defective Translation  
☐ PTO-875  
 FORM PCT/DO/EO/905 (December 1997)

Frederick Smith  
 Telephone: 703-305-3657